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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Air Transport Association

Edward A. Merlis  
Senior Vice President  
Legislative and  
International Affairs

February 7, 2002

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re: Written Ex Parte Presentation; ET Docket No. 98-153**  
**Ultra-Wideband Transmission Systems**

Dear Chairman Powell:

The Air Transport Association of America, Inc.<sup>1</sup> supports the position that in a proceeding such as this under Part 15, the burden to demonstrate that a proposed unlicensed device will not cause harmful interference to authorized devices lies with the device proponent. For this reason, we agree with the views of Latham & Watkins, as set forth in a letter dated January 28, 2002, written on behalf of Sirius Satellite Radio, Inc. Nothing in the Communications Act of 1934 shifts the ultimate burden of persuasion to others. To do so in this proceeding would turn established law, policy, and procedure on its head.

In this proceeding, it is understandable that the proponents for unlicensed UWB devices would seek to convince the Commission that the burden of persuasion lies elsewhere because the proponents are unable to demonstrate that UWB devices, many of which do not yet even exist, can and will operate safely. Indeed, much of the hard data in the record shows just the opposite, that the devices tested will interfere with certain authorized devices, such as PCS, GPS, and SDARS.

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<sup>1</sup> Airborne Express, Alaska Airlines, Aloha Airlines, America West Airlines, American Airlines, American Trans Air, Atlas Air, Continental Airlines, Delta Air Lines, DHL Airways, Emery Worldwide, Evergreen International Airlines, Federal Express, Hawaiian Airlines, JetBlue Airways, Midwest Express Airlines, Northwest Airlines, Polar Air Cargo, Southwest Airlines, United Airlines, United Parcel Service, and US Airways. Associate members are: Aerovias de Mexico, Air Canada, KLM-Royal Dutch Airlines, and Mexicana de Aviacion.

The Honorable Michael K. Powell

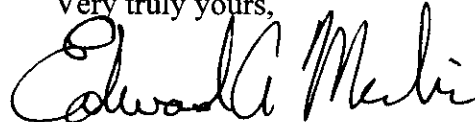
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As we have expressed repeatedly, ATA is greatly concerned that unconditional approval for the development of UWB devices under Part 15 will adversely impact the level of safety in U.S. commercial aviation. The Department of Transportation shares this view. Thus, we continue to recommend that UWB devices be prohibited from operating between one and six GHz, consistent with data in the record. And we further urge the Commission to reject the notion that opponents to proposed unlicensed devices must demonstrate harmful interference. The ultimate burden must lie with the proponent to demonstrate that the proposed device will not cause harmful interference to existing authorized services.

We would be happy to respond to any questions you might have.

Very truly yours,

A handwritten signature in black ink, appearing to read "Edward A. Merlis". The signature is fluid and cursive, with the first name "Edward" being more prominent and the last name "Merlis" following in a similar style.

Edward A. Merlis

Senior Vice President

Legislative and International Affairs